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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-79**

13 **SHANIN DENISE SMITH**
14 **59 Le Mans**
Mission Viejo, CA 92692

A C C U S A T I O N

15 **Registered Nurse License No. 604476**

16 Respondent.
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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about August 14, 2002, the Board of Registered Nursing issued Registered
24 Nurse License Number 604476 to Shanin Denise Smith (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on May 31, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 CAUSE FOR DISCIPLINE

2 (Out of State Discipline of Respondent's Nursing License)

3 8. Respondent has subjected her license to disciplinary action under Code section
4 2761, subdivision (a)(4), in that she has had a professional license disciplined in another state.
5 The circumstances are that her Arizona registered nurse license has been disciplined in a prior
6 disciplinary action entitled *In the Matter of Registered Nurse License Number RN145276 Issued*
7 *To Shanin Denise Smith, Respondent*. The Arizona State Board of Nursing (Arizona Board)
8 issued a Consent for Entry of Voluntary Surrender Order Number 0707015 dated June 6, 2007,
9 based upon a complaint charging Respondent with violation of the State of Arizona Nurse
10 Practice Act. Pursuant to Arizona Revised Statutes (ARS) section 32-1605.01, subdivision (D),
11 Respondent voluntarily surrendered her Arizona registered nurse license for a minimum of three
12 years.

13 9. Based on the evidence before it, the Arizona Board made the following Findings
14 of Fact:

15 a. The Arizona Board issued professional nurse license number RN145276
16 to Respondent.

17 b. On or about June 6, 2007, Respondent underwent a pre-employment urine
18 drug screen (UDS) when Respondent applied for employment at Maxim Healthcare Services in
19 Glendale, Arizona. The UDS was positive for cocaine, and opiates and was confirmed by Gas
20 Chromatography/Mass Spectrometry (GC/MS) testing.

21 c. On or about March 3, 2008, Respondent underwent a chemical
22 dependency evaluation conducted by Phillip D. Lett Ph.D. Dr. Lett found several substance use
23 disorder risk factors, but did not diagnose Respondent with a Substance Dependency Disorder.
24 Dr. Lett made recommendations that Respondent participate in counseling, random urine drug
25 screening, and remain alcohol and drug free during her course of counseling, *inter alia*. Dr. Lett
26 opined that if Respondent were compliant with his recommendations, it was his impression that
27 Respondent "can function safely as a nurse."

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1 d. Respondent strongly disputed the validity of the positive UDS and
2 attributed the result to laboratory error. Respondent also strongly disputed Dr. Lett's findings and
3 opinion.

4 e. On April 12, 2011, Respondent requested to voluntarily surrender her
5 Arizona Board issued professional nurse license number RN145276 because she no longer lived
6 in Arizona and was then not working as a nurse.

7 10. Based on the evidence before it, the Arizona Board made the following
8 Conclusions of Law:

9 a. Pursuant to ARS sections 32-1606, 32-1663, and 32-1664, the Arizona
10 Board has subject matter and personal jurisdiction over the matter.

11 b. The conduct and circumstances described in the Findings of Fact
12 constitute a violation of ARS section 32-1663, subdivision (D), as defined in ARS section 32-
13 1601, subdivision 16(d) and subdivision 16(j) and Arizona Administrative Code (AAC) R4-19-
14 403, section 9, section 17, section 18, and section 31.

15 c. The conduct and circumstances described in the Findings of Fact
16 constitute sufficient cause pursuant to ARS sections 32-1605.01, subdivision (D) and 32-1664,
17 subdivision (N), to take disciplinary action against Respondent's license to practice as a
18 registered nurse in the State of Arizona.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein
21 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 604476, issued to
23 Shanin Denise Smith;

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1 2. Ordering Shanin Denise Smith to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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8 DATED: 7/24/2012



for LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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